

SECTION A
COUNTY OF SAN DIEGO

Date Issued March 25, 2011

REQUEST FOR BID
THIS IS NOT AN ORDER

RFB No. 5024

MAIL OR DELIVER TO:

DEPARTMENT OF PURCHASING AND CONTRACTING
COUNTY OF SAN DIEGO, **RFB NO. 5024**
10089 WILLOW CREEK RD, STE 150
SAN DIEGO, CA 92131

|| FOR INFORMATION, PLEASE CALL
|| BILLIE ENGLISH, PROCUREMENT SPECIALIST
|| 858-537-2563; EMAIL: billie.english@sdcounty.ca.gov

|| BID OPENING DATE: May 4, 2011

|| **"NO PUBLIC BID OPENING"**

|| Bids must be received at the upper left address prior to
|| 11:00 A.M. on the date of the Bid Opening.

AWARD: WILL BE MADE TO THE LOWEST
RESPONSIVE RESPONSIBLE BIDDER
BASED ON:

☐ ALL OR NONE ☒ EACH LOT
☐ TOTAL PRICE ☐ EACH ITEM
☐ OTHER (SEE PRICING SCHEDULE)

|| PLEASE STATE YOUR LOWEST PRICE,
|| F.O.B. DESTINATION AND
|| BRAND NAME OR TRADE NAME
|| IF APPLICABLE.

|| (PLEASE USE TYPEWRITER OR BLACK INK)

|| **Envelope must include RFB No. 5024**

DESCRIPTION

THE COUNTY OF SAN DIEGO, DEPT OF GENERAL SERVICES HAS A REQUIREMENT FOR ELECTRONIC SECURITY COMPONENTS OF CLOSED CIRCUIT TELEVISION, SECURITY, ACCESS CONTROL AND FIRE ALARM EQUIPMENT AS DESCRIBED WITHIN.

AWARD WILL BE BASED ON THE TOTAL PRICE PER LOT FOR THE TOTAL PERIOD OF THE BID, BASE TERM PERIOD INCLUDING OPTION 1 AND OPTION 2. ALL ITEMS AND YEARS OF EACH LOT BIDDING MUST BE PRICED FOR BID TO BE CONSIDERED.

BASE TERM PERIOD: DATE OF AWARD THROUGH MAY 31, 2012

1ST OPTION PERIOD: JUNE 1, 2011 THROUGH MAY 31, 2013

2ND OPTION PERIOD: JUNE 1, 2012 THROUGH MAY 31, 2014

PRICING WORKSHEETS TO BE PROVIDED ON CD OR DVD WITH RFB.

ALL QUESTIONS MUST BE SUBMITTED IN WRITING TO MARTHA.TREVEJO@SDCOUNTY.CA.GOV NO LATER THAN 1:00 P.M. ON APRIL 11, 2011.

Purchasing and Contracting Representations and Certifications Form must be completed and submitted with bid submission.

Bidder acknowledges Addendum No. 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐

SUBJECT TO ACCEPTANCE WITHIN [90] DAYS | PAYMENT TERMS NET 30 OR % day

NAME AND ADDRESS OF BIDDER (Type or Print)

Street, City, State, Zip

Telephone: ()

Fax Number ()

NAME AND TITLE OF PERSON AUTHORIZED
TO SIGN OFFER:

SIGNATURE

OFFEROR DATE

NOTIFICATION OF AWARD
(This section for County use only)

ACCEPTANCE AS TO ITEM(S) NUMBERED:

COUNTY OF SAN DIEGO

BY: DATE

WINSTON F. McCOLL, Director

TOTAL AMOUNT

AWARD NO.

NAME AND TITLE OF CONTRACTING OFFICER

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STATEMENT OF WORK

The County of San Diego is requesting bids from qualified organizations to provide a formal bid for Components of Closed Circuit Television equipment, Security equipment, Access Control equipment and Fire alarm equipment.. This may result in one or more annual contracts with multi-year options. Each awarded contractor is responsible for providing the resources or functions necessary to meet the intent of the contract.

1.0 LOT # 1 ACCESS CONTROL SYSTEMS

- 1.1 Alam Saf
- 1.2 Altronix
- 1.3 Arrow Wire & cable
- 1.4 Continental Access
- 1.5 Essex
- 1.6 Rutherford
- 1.7 Seco-Larm
- 1.8 SDC (SECURITY DOOR CONTROLS)

2.0 LOT # 2 CCTV SYSTEMS

- 2.1 Axis
- 2.2 Hik Vison
- 2.3 Hunt
- 2.4 Toshiba
- 2.5 Sohu Technologies
- 2.6 Salient DVR
- 2.7 Sony

3.0 LOT #3 SECURITY SYSTEMS

- 3.1 Aleph
- 3.2 Altronix
- 3.3 Arrow Wire & Cable
- 3.4 Bosch
- 3.5 DSC (DIGITAL SECURITY CONTROLS)
- 3.6 DMP (DIGITAL MONITORING PRODUCTS)
- 3.7 George Risk
- 3.8 Golden State Instrument
- 3.9 Safety Technologies
- 3.10 Linera
- 3.11 Seco-Lam
- 3.12 United Security Products
- 3.13 Battery

4.0 LOT #4 FIRE SYSTEMS

- 4.1 Notifier
- 4.2 Fire warden
- 4.5 Simplex

5.0 SPECIAL TERMS AND CONDITIONS

- 5.1 Successful bidder shall provide non-Bid items at no more than 20% over cost up to \$1000.00 and no more than 15% over \$1000.00. Vendor must provide copy of manufacturers invoice to County of San Diego. The County of San Diego will have the option to shop for best value. Vendor shall automatically upgrade to the newest version of requested item with County of San Diego Electronic Security approval.
- 5.2 Successful bidder shall not ask for any increase in price for any item on the bid list, unless original item is discontinued and upgraded. In this case, the request must be substantiated with the manufacturers written documentation of item upgrade and price increase to the dealer.
- 5.3 All items listed as in-stock items must be available for delivery and/or pick-up within four (4) hours of phone/on-line request or walk in purchase, whichever occurs first. Should any item listed as in-stock not be available within the four (4) hour limit, the County of San Diego shall have at its option the right to purchase that item where available, and charge the successful bidder any difference in cost or shipping including tax. Vendor shall credit the County of San Diego on a future order.
- 5.4 Successful bidder shall provide 24-hour 7 day parts availability; vendor shall maintain an emergency phone number and have in stock materials available within four (4) hours.
- 5.5 The successful bidder shall maintain an online parts catalog with real time parts purchase, confirmation and invoicing. Vendor must accept the County of San Diego Purchasing Card as payment in addition to check payments. On line ordering system must be available before vendor can bid.
- 5.6 The successful bidder shall have available Monday through Friday 7:00 am to 3:30pm a technical representative trained in all aspects of the items contained in this bid.
- 5.7 The successful bidder will provide a letter commitment, which includes a statement that the vendor is an authorized direct distributor of the products. The letter must be on manufacturer letterhead, signed by the manufacturer and submitted with your bid.
- 5.8 No substitutions or equals will be accepted except where noted.
- 5.9 No used or refurbished parts will be accepted.
- 5.10 Should a part number no longer exist, bidder shall enter not applicable (NA) amount and explain the reason in writing for the (NA) bid.
- 5.12 The County of San Diego uses a unique facility code with all access cards: the successful bidder must coordinate with Electronic Security on all access card orders.

DELIVERY ADDRESS

COUNTY OF SAN DIEGO, DEPT OF GENERAL SERVICES
555 OVERLAND AVENUE, BUILDING 6, STE 6104
SAN DIEGO, CA 92123

DELIVERY DOCUMENTS MUST REFLECT THE FOLLOWING MINIMUM INFORMATION:

- SUPPLIER NAME AND ADDRESS
- ORDERING ORGANIZATION AND LOCATION
- QUANTITY, DESCRIPTION, UNIT PRICE AND EXTENDED PRICE

DELIVERABLE WITH RFB

SIGNED RFB, INCLUDING PRINTED PRICING SUMMARY PAGES

PRICING WORKBOOKS ON CD OR DVD

LETTER FROM MANUFACTURES QUOTED, PER SPECIAL TERMS AND CONDITIONS 5.7

SIGNED REPS AND CERTS

SIGNED CONTRACTOR CONFLICT CERTIFICATION

LOT 1 COMPONENTS

SEE WORKSHEET FOR PRICING SCHEDULE

SECTION A
PRICING SCHEDULE

LOT 2 COMPONENTS

SEE WORKSHEET FOR PRICING SCHEDULE

SECTION A
PRICING SCHEDULE

LOT 3 COMPONENTS

SEE WORKSHEET FOR PRICING SCHEDULE

SECTION A
PRICING SCHEDULE

LOT 4 COMPONENTS

SEE WORKSHEET FOR PRICING SCHEDULE

PUBLIC AGENCY PARTICIPATION (July 2008)

It is intended that any other public agency (i.e., city, district, public authority, public agency, municipality and other political subdivision or public corporation of California) located in San Diego County shall have the option to participate in any award made as a result of this solicitation. Any agency located outside of San Diego County shall have the option to participate, but shall incur all freight charges from location of awarded vendor to delivery point. The County of San Diego shall incur no financial responsibility in connection with orders issued under the authority of this provision or in making payments to the vendor.

COUNTY CONTRACTOR PARTICIPATION (July 2008)

It is intended that any educational institution or non profit organization that is currently under contract with the County of San Diego to provide direct support to the County with reimbursement for such support coming directly from the County shall have the option to participate in any award made as a result of this solicitation. The contractor agrees to provide the items called for in the schedule of this contract to educational institutions or non profit organization under the authority of this provision. The contractor is responsible for confirming that any educational institution or non profit organization has a current contract with the County of San Diego. The County shall incur no financial responsibility in connection with orders issued under the authority of this provision. The ordering organization shall be solely responsible for verifying they are currently under contract with the County, placing orders, and making payments to the contractor.

AUTOMATIC CONTRACT RENEWAL (July 2008)

Unless County notifies Contractor in writing, not less than 30 days prior to the expiration date that they do not intend to renew the Agreement, the Agreement will be automatically renewed for another year. Term not to exceed August 31, 2014.

CALIFORNIA REVENUE AND TAXATION CODE SECTION 18662

In compliance with California Revenue and Taxation code section 18662, if you are a non resident of California (out-of-state invoices) who receives California source income, the County will pay California Use Tax directly to the State of California per permit no. SR FH 25-632384. Fifteen (15) business days prior to the first payment, new suppliers or suppliers with expired forms or forms with incorrect information, must submit new forms to the County (forms are available from the Franchise Tax Board website listed below).

Under certain circumstances you may be eligible for reduced or waived nonresident withholding. If you have already received a waiver or a reduced withholding response from the State of California and the response is still valid, submit the response to the County in lieu of the forms. Failure to submit the required forms will result in withholding of payments. Refer to the Franchise Tax Board websites (listed below) for tax forms and information on nonresident withholding, including waivers or reductions. The County will not give you any tax advice. It is recommended you speak with your tax adviser and/or the State of California for guidance.

Franchise Tax Board Websites:

<http://www.ftb.ca.gov>

http://www.ftb.ca.gov/individuals/Withholding_Definitions.shtml

http://www.ftb.ca.gov/individuals/wsc/Processing_Changes_for_2010.shtml

http://www.ftb.ca.gov/individuals/wsc/forms_and_publications.shtml

http://www.ftb.ca.gov/individuals/wsc/decision_chart.shtml

Submit forms to the Auditor & Controller via fax at (619) 531-5417 or mail originals to: County of San Diego, 1600 Pacific Hwy, Room 061, San Diego, CA 92101. The P.O. Number or Contract Number (if available) and "California Revenue and Taxation Code Section 18662" must appear on fax cover sheet and/or the outside of the mailing envelope."

SECTION B
COUNTY OF SAN DIEGO'S
INSTRUCTIONS FOR COMPLETING REQUEST FOR BID
AND PRE-AWARD REQUIREMENTS

Rev 01/04

1. PRICING YOUR BID

- 1.1 Bid on each item separately. Prices should be stated per unit(s) specified herein.
- 1.2 Unless otherwise specified, all prices shall be F.O.B. destination. Bids other than F.O.B. destination shall be considered non-responsive and will be rejected. Prices shall include all freight charges.
- 1.3 Unless otherwise specified, prices bid herein should **NOT** include California sales/use tax or Federal excise tax. The County generally is required to pay California sales/use tax, and it should be shown as a **separate item** on invoices. The County is exempt from payment of Federal excise tax. It must **NOT** be included in invoices.
- 1.4 All prices and notations must be in ink or typewritten. No erasures permitted. Mistakes may be crossed out and corrected and must be initialed in ink by person(s) signing the bid.
- 1.5 Discounts of less than thirty- (30) days will not be considered in evaluation of bids to determine overall apparent low bidder.
- 1.6 Net terms of less than 30 days will not be accepted.

2. DUTY TO INQUIRE

Should the firm find discrepancies in or omissions from the RFB, plans, specifications or other documents, or should the firm be in doubt as to their meaning, the firm must at once notify the Procurement Specialist, in writing. If the point in question is not clearly and fully set forth, a written addendum will be issued and posted on the County's Web site "BUYNET II." **It is the firm's responsibility to register for the corresponding commodity code, or to periodically check the Web site for such addenda.** The County will not be responsible for any oral instructions nor for any written materials provided by any County personnel that are not also posted on the BuyNet II website.

3. SUBMITTING YOUR BID

- 3.1 Each bid must be in a separate sealed envelope **WITH BID NUMBER ON THE OUTSIDE** and must be delivered to the County Purchasing and Contracting Department, Front Desk (where it will be time stamped to indicate time of receipt), 10089 Willow Creek Road, Suite 150, San Diego, California 92131, by 11:00 a.m. on the day specified. Bids **will not** be publicly opened.
- 3.2 Failure to bid on authorized County form may be cause for rejection of bid.
- 3.3 Any bid received at the County Purchasing and Contracting Department after the exact time for receipt will not be considered and will be rejected as a late bid.
- 3.4 Late bids will be returned to the bidder unopened unless it is determined that the late receipt was due solely to mishandling by the Purchasing and Contracting Department and such determination is made prior to award.
- 3.5 The County's primary means of providing bids and addenda is the County BuyNet Internet website: <http://buynet.sdcountry.ca.gov/>
- 3.6 No oral interpretation shall be made to modify any provisions of any bid specifications. Requests for an interpretation shall be made in writing to the County Director of Purchasing and Contracting prior to bid opening and a written response will be posted on the County BuyNet website.

- 3.7 Any vendor desiring to withdraw its bid must do so before County bid opening. If there are any questions or comments relative to technicalities of the bid, they must be submitted in writing to County of San Diego, Director of Purchasing and Contracting, within 24 hours after bid opening.
- 3.8 Bids submitted in response to this Request for Bid must be in full conformance with the terms and conditions set forth herein. Further, all specification requirements must be met unless the language of the Request for Bid specifically indicates alternate specifications will be considered.
- 3.9 Samples of items, when required, must be furnished free of expense to the County, and if not destroyed by tests will, upon request, be returned at the bidder's expense.
- 3.10 All bids must be signed with the firm name and by an authorized officer or employee. Obligations assumed by such signature must be fulfilled.

4. **EVALUATION AND AWARD**

- 4.1 Bids are subject to acceptance at any time within 90 days after opening of same, unless otherwise stipulated by the County.
- 4.2 In determining the lowest bid, discounts of 30 days or greater will be considered. Discounts will be calculated from receipt and acceptance of merchandise or invoice, whichever is later.
- 4.3 Award will be made by the Department of Purchasing and Contracting as stated on the cover/pricing page to the lowest responsive, responsible bidder.
- 4.4 The County reserves the right to waive a variation in specification if, in the opinion of the County, such variation does not materially change the item or its performance within parameters acceptable to the County.
- 4.5 The County reserves the right to reject any or all bids and to accept or reject any item(s) thereon, or waive any informality in the bid.
- 4.6 In the event of a conflict between unit price bid and bidder's extended price, the unit price will prevail unless price is so obviously unreasonable as to indicate an error. In that event, the bid will be rejected as non-responsive for the reason of inability to determine the intended bid.
- 4.7 The County reserves the right to perform a pre-award survey of the bidder to determine capability to perform, including but not limited to facilities, financial responsibility, materials/supplies, and past performance. The determination of the County as to the bidder's prospective ability to perform the contract shall be conclusive.

5. **PROTEST PROCEDURES**

Any protest resulting from this procurement is to be processed as prescribed in Board of Supervisors' Policy A-97, Protest Procedures for Award of Contracts. All protests shall be in writing, be made **prior** to Award, and be made only by an offeror. Such protests shall clearly state the ground for the protest and the relief sought. Protests shall be filed with the County's contracting office identified in the solicitation package.

For purposes of clarification regarding Board of Supervisors Policy A-97, Protest Procedures for Award of Contracts the posting of the bid abstract is equivalent to the posting of the NOTICE OF INTENT (NOI).

Whenever a contract is contemplated to be awarded to other than the low bidder in a formally advertised procurement, the low bidder shall be so notified five working days prior to award, in addition to the posting of the proposed award in a public place in the Contracting Office for the same period of time. Copies of Policy A-97 are

available upon request from the Clerk of the Board, 1600 Pacific Highway, San Diego, CA 92101 or via the County of San Diego's Internet website: <http://www.co.san-diego.ca.us/cob/policy/index.html>

6. **LOCAL BUSINESS PREFERENCE**

Responsive bids from responsible local San Diego County businesses shall be given preference for award over bids received from non-local businesses. "Local Business" is defined as a business with a valid license issued by a city within the County, employing San Diego residents, and with a verifiable address within the County, or a business employing San Diego residents and with a verifiable address in an unincorporated area of the county. Post Office Boxes do not qualify as verifiable local business addresses. If a tie bid occurs between a local business and a non-local business, award shall be made to the local business.

If the lowest responsible, responsive bid is submitted by a non-local business, one percent (1%) shall be subtracted from the lowest responsive, responsible bid submitted by a local business in evaluating the bids for award. If application of the one percent (1%) factor results in the local business bid being equal to or lower than the non-local business bid, contract award will be made to the local business at the local business bid price, except for public works and construction bids, or if prohibited by State or Federal law.

SECTION C
TERMS & CONDITIONS OF REQUEST FOR BIDS
AND RESULTANT CONTRACT OR PURCHASE ORDER

1. **DEFINITIONS**

"County" shall mean The County of San Diego, California

"Offeror" shall mean any person, firm, partnership, or corporation submitting a proposal to County in response to this solicitation.

"Contractor" shall mean the offeror whose proposal is accepted by County and who has entered into an agreement with County to provide the equipment and services described herein.

"Vendor" shall mean the same as contractor.

2. **DISABLED VETERANS BUSINESS ENTERPRISE PARTICIPATION ENCOURAGED** (Rev. 11/97)

County Board of Supervisor's policies B-53 and B-39 A encourages the participation of small and Disabled Veterans Business Enterprises (DVBE) in County procurement. Section A of this solicitation (Representations & Certifications) contains a description of the County's requirements to qualify as an (DVBE). Perspective (DVBE) bidders/offerors are encouraged to contact the Contracting Office representative listed on the face of this Request for Bid (RFB) or Request for Proposal (RFP) for information concerning the County's procurement procedures.

3. **ASSIGNMENT OF RIGHTS, TITLE AND INTEREST**

In submitting a bid to a public purchasing body, the vendor offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 1 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the vendor.

4. **CAL OSHA**

As applicable, all items furnished under this bid shall meet or exceed the standards established by the California Occupational Safety and Health Act of 1973 and current amendments thereto, provided the end use of the item is for the purpose for which the item is intended.

5. **FORMAL BIDS**

In the event this bid results in a purchase order, terms and conditions of this bid are incorporated herein and from a part of the purchase order. In the even of any conflict or inconsistency between the terms of the formal bid or award, the terms of this formal bid shall control.

6. **DELIVERY**

Time is of the essence, and the purchase order is subject to termination for failure to deliver on time. The acceptance by buyer of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by the vendor.

7. **INSPECTION**

All items or services are subject to final inspection and acceptance at designation by the County. Such final inspection shall be made within a reasonable time after delivery.

8. **TERMINATION FOR DEFAULT**

The County may, by written notice of default to the vendor, terminate any resulting order in whole or in part should the vendor fail to make satisfactory progress, fail to deliver within time specified therein or fail to deliver in strict conformance to specifications and requirements set forth therein. In the event of such termination, the County reserves the right to purchase or obtain the supplies or services elsewhere, and the defaulting vendor shall be liable for the difference between the prices set forth in the terminated order and the actual cost thereof to the County. The prevailing market price shall be considered the fair repurchase price.

- 8.1. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under this provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the County, be the same as if the notice of termination had been issued pursuant to such clause.
- 8.2. The rights and remedies of County provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.

9. **TERMINATION FOR CONVENIENCE**

The County may, by written notice stating the extent and effective date, terminate any resulting order for convenience in whole or in part, at any time. The County shall pay the vendor as full compensation for performance until such termination:

- 9.1. The unit or pro rata price for the delivered and accepted portion.
- 9.2. A reasonable amount, as costs of termination, not otherwise recoverable from other sources by the vendor as approved by the County, with respect to the undelivered or unaccepted portion of the order, provided compensation hereunder shall in no event exceed the total price.
- 9.3. In no event shall the County be liable for any loss of profits on the resulting order or portion thereof so terminated.
- 9.4. The rights and remedies of County provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.

10. **TITLE**

Title to the material and supplies purchased shall pass directly from vendor to County at the F.O.B. point shown, subject to the right of County to reject upon inspection.

11. **VARIATIONS IN SPECIFICATIONS**

The County reserves the right to waive a variation in specification if, in the opinion of the County, such variation does not materially change the item or its performance within parameters acceptable to the County.

12. **HAZARDOUS SUBSTANCES** (July 2008)

If any product being delivered or supplied to the County under this contract/purchase order is listed in the Hazardous Substances List of the Regulations of the Director of Industrial Relations with the California Occupational Safety and Health Standards Board, or if the product presents a physical or health hazard as defined in the California Code of Regulations, General Industry Safety Order, Section 5194 (T8CCR), Hazard Communication, then the contractor must include a Material Safety Data Sheet (MSDS) with delivery, or shipment. Each MSDS must reference the contract/purchase order number, and identify the "Ship To Address". All shipments and containers must comply with the labeling requirements of Title 49, Code of Federal Regulations by identifying the hazardous substance, name and address of manufacturer, and appropriate hazard warning regarding potential physical safety and health hazard. (County of San Diego Administrative Manual, 0300-02, Hazard Communication Program).

No product which is manufactured with fully halogenated chlorofluorocarbons (CFC) shall be delivered or supplied, or used on a job site in performance of this contract/purchase order unless specifically described in the stated requirements of this contract/purchase order or otherwise explicitly authorized by the County Director, Purchasing and Contracting.

13. **PROHIBITED CONTRACTS**

Section 67 of the San Diego County Administrative Code provides that the County shall not contract with, and shall reject any bid or proposal submitted by the person or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

- 13.1. Persons employed by the County or of public agencies for which the Board of Supervisors is the governing body;
- 13.2. Profit-making firms or businesses in which employees described in sub-section (a) of code serve as officers, principals, partners, or major shareholders;
- 13.3. Persons who, within the immediately preceding twelve (12) months came within the provisions of the above sub-section and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; and
- 13.4. Profit-making firms or businesses in which the former employees described in sub-section 16.3 of code serve as officers, principals, partners, or major shareholders.

With the affixing of a signature to your response to this solicitation, offeror certifies that the above provisions of the Code have been complied with, and that any exception will cause any ensuing contract to be invalid.

14. **ESTIMATED QUANTITIES** (March 1993)

The Estimated Quantities in Section "A", Pricing Schedule-Worksheets, are provided solely for evaluation of bids. They represent approximate anticipated use based on historical consumption. If the County's actual requirements do not result in orders in the quantities described as "estimated" in the Schedule, that fact shall not constitute the basis for price adjustment.

15. **AVAILABILITY OF FUNDING**

The County's obligation for payment of any contract beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the County shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.

16. **INSPECTION OF SERVICE/MATERIALS/SUPPLIES**

- 16.1. All performance (which includes services, materials, supplies and equipment furnished or utilized in the performance of this contract, and workmanship in the performance of services) shall be subject to inspection and test by the County at all times during the term of the contract. The Contractor shall provide adequate cooperation to any inspector assigned by the County to permit the inspector to determine the Contractor's conformity with these specifications and the adequacy of the services being contractually provided. All inspection by the County shall be made in such a manner as not to unduly interfere with Contractor performance.
- 16.2. If any services performed hereunder are not in conformity with the specifications and requirements of this contract, the County shall have the right to require the Contractor to perform the services in conformity with said specifications and requirements at no additional increase in total contract amount. When the services to be performed are of such nature that the difference cannot be corrected, the County shall have the right to (1) require the Contractor immediately to take all necessary steps to ensure future performance of the services in conformity with requirements of the contract, and (2) reduce the contract price to reflect the reduced value of the services performed. In the event the Contractor fails to perform the services promptly or to take necessary steps to ensure future performance of the service in conformity with the specifications and requirements of the contract, the County shall have the right to either (1) by contract or to otherwise have the services performed in conformity with the contract specifications and charge to the Contractor any cost occasioned to the County that is directly related to the performance of such services, or (2) terminate this contract for default as provided in the Termination clause.

17. **DISPUTES**

- 17.1. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract

which is not disposed of by agreement shall be decided by the Contracting Officer who shall furnish the decision to the Contractor in writing. The decision of the Contracting Officer shall be final and conclusive unless determined by the court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith. The Contractor shall proceed diligently with the performance of the contract pending the Contracting Officer's decision.

- 17.2. The "Disputes" clause does not preclude consideration of legal questions in connection with decisions provided for in paragraph (A) above. Nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

18. CHANGES

The Contracting Officer may at any time, by written order, make changes within the general scope of this contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

19. ASSIGNABILITY

The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County thereto; provided however, that claims for money due or to become due to the Contractor from the County under this contract may be assigned without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

20. INDEMNITY

County shall not be liable for, and Vendor shall defend and indemnify County and the employees and agents of County collectively, "County Parties") against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, changes or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to or arising out of this purchase order, and arising either directly or indirectly from any act, error, omission or negligence of Vendor or its contractors, licensees, agents, servants or employees, including Claims caused by the concurrent negligent act, error or omission of County Parties. However, Vendor shall have no obligation to defend or indemnify County Parties against Claims (i) to the extent they arise from the active concurrent negligence of County Parties, or (ii) caused by the sole negligence or willful misconduct of County Parties.

21. CONDUCT OF CONTRACTOR

- 21.1. The Contractor agrees to inform the County of all the Contractor's interests, if any, which are or which the Contractor believes to be incompatible with any interests of the County.
- 21.2. The Contractor shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipient in the conduct of his duties, accept any gratuity or special favor from individuals or organizations with whom the Contractor is doing business or proposing to do business, in accomplishing the work under the contract.
- 21.3. The Contractor shall not use for personal gain or make other improper use of privileged information which is acquired in connection with his employment. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific development; medical, personnel, or security records of the individuals; anticipated materials requirements or pricing actions; and knowledge of selections of contractors or subcontractors in advance of official announcement.

- 21.4. The Contractor or employees thereof shall not offer gifts, gratuity, favors, entertainment directly or indirectly to County employees.

22. DISALLOWANCE

In the event the Contractor receives payment for services under this contract which is later disallowed by the County, the Contractor shall promptly refund the disallowed amount to the County on request, or at its option, the County may offset the amount disallowed from any payment due to the Contractor under any contract with the County.

23. GOVERNING LAW

This contract shall be construed and interpreted according to the laws of the State of California.

24. AUDIT AND INSPECTION OF RECORDS

- 24.1. General. The County shall have the audit and inspection rights described in this section.
- 24.2. Cost or pricing data. If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities of the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the County or its agent shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation pricing or performance of such contract, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted.
- 24.3. Availability. The materials described above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit or reproduction, until the expiration of 3 years from the date of final payment under this contract, or by (1) and (2) below:
- 24.3.1. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.
- 24.3.2. Records which relate to appeals under the "Disputes" clause of this contract, or litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of, or three years after contract completion, whichever is longer.
- 24.4. The Contractor shall insert a clause containing all the provisions of this entire clause in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the contracting officer under the County's prime contract.

25. PATENT AND COPYRIGHT INFRINGEMENT

The contractor shall report to the contracting officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the contractor has knowledge.

26. CONTRACTOR REPRESENTATION

Unless the contractor expressly states otherwise in his proposal, where functional requirements are expressly stated as part of the requirements of this solicitation, the contractor, by responding, represents that in its opinion the system proposed is capable of meeting those requirements. In the event of any inconsistency between the functional specifications and the detailed specifications contained in the solicitation, the former will control.

27. WARRANTY

Contractor agrees that the equipment, supplies or services to be furnished shall be covered by the most favorable commercial warranties the contractor gives to any customer for the same or substantially similar equipment, supplies or services and that the

rights and remedies so provided are in addition to and do not limit any rights afforded to County.

28. INSURANCE

Before commencement of the work, contractor shall submit Certificates of Insurance evidencing that contractor has obtained for the period of the contract, from generally recognized responsible insurer, insurance in the following forms of coverage and minimum amounts specified:

- 28.1. A policy of Worker's Compensation in statutory amounts.
- 28.2. Commercial General Liability insurance written on an "occurrence" basis and in an amount of not less than \$1,000,000 each occurrence.
- 28.3. Automobile Liability Insurance covering owned, non-owned and hired automobiles in an amount not less than \$1,000,000 combined single limit.
- 28.4. The policies (except for Workers' Compensation) shall name the County of San Diego as additional insured.
- 28.5. Each policy of insurance shall contain the following clause:

"It is agreed that these policies shall not be cancelled nor the coverage reduced until thirty (30) days after the COTR shall have received written notice of such cancellation or reduction. The notice shall be deemed effective the date delivered to said COTR, as evidenced by properly validated return receipt."
- 28.6. The County of San Diego shall retain the right at any time to review the coverage, form and amount of insurance required herein and may require contractor to obtain insurance sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exist at the time a change in insurance is required. County requirement shall be reasonable.

29. PERMITS, NOTICES, FEES AND LAWS

The contractor shall, at contractor's expense, obtain all necessary permits and licenses, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to work and to the preservation of the public health and safety.

30. AIR, WATER POLLUTION CONTROL, SAFETY AND HEALTH

Contractor shall comply with all air pollution control, water pollution, Safety and Health Ordinances and statutes which apply to the work performed pursuant to this contract, including any requirements specified in state government codes.

31. FINDINGS CONFIDENTIAL

Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Agreement which the County requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

32. PUBLICATION, REPRODUCTION AND USE OF MATERIAL

No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The County shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. All reports, data and other materials prepared under this Agreement shall be the property of the County upon completion of this Agreement.

33. NOTICE

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the addresses set forth herein.

34. **PRODUCT IDENTIFICATION AND LABELING**

Each package shall be identified with manufacturer's label, which shall conform to the requirements of the Fair Packaging and Labeling Act and Section 12604 of the California Business and Professions Code.

35. **DRUG & ALCOHOL FREE WORKPLACE**

The County of San Diego, in recognition of individual rights to work in a safe, healthful and productive work place, has adopted a requirement for a drug and alcohol free work place, County of San Diego Drug and Alcohol Use Policy C-25. This policy provides that all County employed Contractors and Contractor employees shall assist in meeting this requirement.

- 35.1. As a material condition of this agreement, the Contractor agrees that the Contractor and the Contractor employees, while performing service for the County, on County property, or while using County equipment:
 - 35.1.1. Shall not be in any way impaired because of being under the influence of alcohol or a drug.
- 35.2. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
 - 35.2.1. Shall not sell, offer, or provide alcohol or a drug to another person.
 - 35.2.2. Shall not be applicable to a Contractor or Contractor employee who, as part of the performance of normal job duties and responsibilities prescribes or administers medically prescribed drugs.
- 35.3. The Contractor shall inform all employees that are performing service for the County on County property or using County equipment, of the County objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.
- 35.4. The County may Terminate for Default or Breach this Agreement and any other Agreement the Contractor has with the County, if the Contractor, or Contractor employees are determined by the Contracting Officer not to be in compliance with the above.

36. **ORDERING WITH BLANKET PURCHASE AGREEMENT**

A blanket purchase agreement for the estimated requirements will be sent to the successful bidder. This will authorize the acceptance of releases from designated County departments for their requirements. The vendor shall complete delivery of items ordered to destinations set forth in the release. Each release shipment shall be accompanied by a priced invoice itemizing all material. Partial shipments are not acceptable when ordered by release.

37. **INVOICES**

All deliveries must be accompanied by invoices or delivery tickets. A copy of each invoice or delivery ticket must be signed by the individual accepting delivery. Invoices shall include item, description, quantity, delivery point, price, terms, purchase order number, release number (if applicable to a blanket purchase agreement) and any data relative to the shipment. Original invoices shall be mailed to the County address as specified in the purchase order or blanket purchase agreement release. Discounts will be calculated from receipt of merchandise or invoice, whichever is later.

38. ACCEPTANCE OF COUNTY CREDIT CARD FOR PAYMENT

- 38.1. Orders may be paid using the County of San Diego credit card (VISA).
- 38.2. For your bid to be considered responsive, you must accept County of San Diego credit card for payment.
- 38.3. Pricing remains the same whether paid by credit card or check.

39. PRICE ADJUSTMENT, MANUFACTURER'S INCREASES

- 39.1. Manufacturer's general price increases to the trade or industry may be passed on to the County only under the following conditions, and only if specifically authorized in the Award resulting from a Request for Bid (RFB).
 - 39.1.1. Prices bid must be firm for the first eleven (11) months of the blanket agreement.
 - 39.1.2. After the initial eleven (11) month period, price adjustments will be allowed for each line item.
 - 39.1.3. Manufacturer's general price increase to the trade or industry is above five (5) percent and below thirty (30) percent.
 - 39.1.4. All price increases or notices must be in writing from the vendor and the manufacturer and must be submitted to the Department of Purchasing and Contracting. The documentation from the manufacturer must include the item name, percent increase and date of price increase. The County reserves the right to NOT accept a requested price increase and to cancel the balance of the award.
- 39.2. If any price increase is authorized, it shall not apply to any order placed before the date on which the County authorizes the price increase nor shall it apply to any order placed within five (5) business days of the date on which the County authorizes the price increase.
- 39.3. Price adjustments will not be retroactive.
- 39.4. Pricing resulting from authorized price adjustments must be firm for the next six (6) months.

40. FLAMMABILITY AND TOXICITY

Materials furnished under this order must meet or exceed minimum California State Fire Marshal's standard for flammability and toxicity for institutional fabrics. Vendor shall provide evidence of California Marshal's test results and approval number.

41. INDEPENDENT CONTRACTOR

The Contractor is, for all purposes arising out of this contract, an independent Contractor and shall not be deemed an employee of the County. It is expressly understood and agreed that the Contractor shall in no event, as a result of this contract, be entitled to any benefits to which County employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits.

42. INTEREST OF CONTRACTOR

The Contractor covenants that it presently has no interest, including but not limited, to other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. The Contractor further covenants that in the performance of this contract, no person having any such interest shall be employed or retained by it under this contract.

43. LICENSING

Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of contractors. All offerors and contractors shall be licensed, if required, in accordance with the laws of this state and any offeror or contractor not so licensed is subject to the penalties imposed by such laws.

43.1. The rights and remedies of the County provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

43.2. As used in paragraph (2.1) of this clause, the terms, "subcontractors or suppliers" means subcontractors or suppliers at any tier.

44. **CONTRACT EXTENSION OPTION**

44.1. One to three months - end of contract period

The providing of goods and/or services described in Section A or B may be extended in one or more increments for a total of no less than one (1) nor more than three (3) calendar months at the discretion of the County Purchasing Director. Each extension shall be affected by written contract modification delivered to the Contractor no less than fifteen (15) calendar days prior to expiration of the contract. The rates set forth in the pricing section shall apply to any extension made pursuant to this option provision unless provision for appropriate price adjustment has been made elsewhere in this contract. All payments are subject to General Terms and Conditions, Clause titled "AVAILABILITY OF FUNDING".

45. **RIGHT TO ACQUIRE EQUIPMENT AND SERVICES**

Nothing in this agreement shall prohibit the County from acquiring the same type or equivalent equipment and/or service from other sources, when deemed by the County to be in its best interest.

46. **SEVERABILITY**

Should any part of this agreement be held to be invalid by a court of competent jurisdiction, the remainder of the agreement shall be considered as the whole agreement and be binding on the contracting parties.